

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

UNITED STATES OF AMERICA,

Case No. 13-20277

Plaintiff,

Hon. Sean F. Cox
United States District Judge

vs.

ANDREW HOGUE, JR. D-2,

Defendant.

REVOCATION OF RELEASE AND ORDER OF DETENTION

In this action, Defendant Andrew Hogue, Jr. (“Defendant”) was charged with theft of mail, in violation of 18 U.S.C. § 1708.

Defendant appeared for a detention hearing before Magistrate Judge David Grand. Defendant was subsequently released on an unsecured bond with a number of conditions, including the condition that Defendant not use or unlawfully possess a narcotic drug or other controlled substances unless prescribed by a licensed medical practitioner and that Defendant submit to drug testing by pretrial services.

On May 22, 2013, Defendant pleaded guilty pursuant to a Rule 11 Plea Agreement. A Bond Review Hearing was also held on that date and Defendant’s bond was amended to include zero tolerance for any continued positive drug tests.

Nevertheless, on July 3, 2013, Defendant submitted to another drug test and tested positive for marijuana. As a result, Pretrial Services Officer Dereck Brand filed a “Petition for

Action on Conditions of Pretrial Release,” recommending that the Court conduct a Bond Review Hearing. This Court held a Bond Review Hearing on August 1, 2013.

The circumstances where a person released under 18 U.S.C. § 3142 is charged with violating the conditions of his or her release is governed by 18 U.S.C. § 3148. If a person is found to have violated the conditions of release, that person can have their release revoked and an order of detention can be entered.

Where such an allegation is made, a hearing should be conducted and if, after the hearing, it is determined that (1) there is probable cause to believe that a crime has been committed or (2) clear and convincing evidence that another violation has been committed, and, there is no condition or combination of conditions of release that will assure that the person will not flee or pose a danger to the safety of any other person or the community, or, the person is unlikely to abide by any condition or combination of conditions of release, the person “shall” be detained. 18 U.S.C. § 3148(b)(1) and (2). Additionally, if there is probable cause to believe that the person has committed a felony while on release, a rebuttable presumption arises that no condition or combination of conditions will assure that the defendant will not pose a danger to the safety of any other person or the community. *Id.*

After hearing testimony at the hearing, and considering all of the circumstances of this matter, the Court finds by clear and convincing evidence that Defendant has wilfully failed to abide by the conditions of his release by unlawfully using controlled substances. The Court further finds that Defendant is unlikely to abide by the conditions of bond in the future. Indeed, upon this Court orally ordering Defendant remanded at the conclusion of the hearing, the United

States Marshal took Defendant into custody and discovered what appears to be marijuana in Defendant's pocket.

Accordingly, as stated on the record this date, **IT IS ORDERED** that the bond previously set in this matter is **REVOKED** and that Defendant is hereby remanded to the custody of the United States Marshal.

IT IS SO ORDERED.

S/Sean F. Cox

Sean F. Cox

United States District Judge

Dated: August 1, 2013

I hereby certify that a copy of the foregoing document was served upon counsel of record on August 1, 2013, by electronic and/or ordinary mail.

S/Jennifer Hernandez

Case Manager